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C O N F I D E N T I A L SECTION 01 OF 02 AMMAN 008521

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FOR NEA AND L

E.O. 12958: DECL: 10/30/2015

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SUBJECT: FM RENEWS REQUEST FOR INTERVENTION IN CHALABI LAWSUIT

Classified By: CDA DAVID HALE FOR REASONS 1.4 (B) & (D)

1. (C) Jordanian Foreign Minister Kasrawi convoked Charge October 26 to renew the GoJ's request that the Department submit a statement of interest in the lawsuit that Iraqi Deputy PM Ahmed Chalabi is currently pursuing against the GoJ in a U.S. federal court.

2. (C) Kasrawi said that even though the GoJ is convinced Jordan is in the right, it is concerned a U.S. Court might rule against the GoJ, or perhaps more likely, call on senior GoJ officials to testify. He referred to cases that he termed precedents in which the Department had filed a statement of interest as early as the discovery phase (see para 3). He asked that the Department reconsider its position, communicated in Washington, declining to intervene.

3. (SBU) FM Kasrawi handed Charge a non-paper, the text of which follows.

Begin text:

Non-Paper

The Foreign Ministry appreciates the prompt attention that the esteemed Department of State has given to our request for a Statement of Interest to be presented by the esteemed Department to the U.S. District Court in the case brought against the Hashemite Kingdom of Jordan by Ahmed Chalabi.

We understand that the Department of State had decided not to accede to our request because it believes that Jordan has a strong chance to prevail on its motion to dismiss the case and because there is no sufficient precedent for cases in which the Department of State had submitted such statements of interest.

While we respect this decision, and appreciate the willingness of the Department to revisit the matter if necessary at a later stage in the litigation, we nevertheless, call upon the Department to reconsider its decision not to submit a Statement of Interest at this time.

Our legal counsel explained to us that, while Jordan raises strong arguments in its current motion to dismiss, there is substantial uncertainty in the U.S. litigation and Jordan cannot be assured of success on the motion. Our legal counsel also informs us that, if the motion to dismiss is denied, top ranking Jordanian officials (and most likely top ranking U.S. officials) may be subject to discovery by Chalabi's attorneys on matters of great sensitivity. Our counsel advises us that a submission by the Department of State of a Statement of Interest at the current stage, would increase Jordan's likelihood of success in its motion to dismiss substantially.

Additionally, the counsel for Jordan informed us that the statutory authorization for a Statement of Interest, 28 U.S.C. SS 517, does not constrain the U.S. Executive Branch from submitting a Statement of Interest at any stage of litigation. The counsel adds that the esteemed Department of State has in fact submitted such Statements of Interest at the comparable stage of other cases and he cites the following examples:

--Anderman v. Federal Republic of Austria, CV 01-01769 (C.D.Cal.);

--Malewics v. City of Amsterdam. No. 04-0024 (D.D.C.);

--Joo v. Japan, No. 00-2288 (D.D.C.);

--Walters v. People's Republic of China, No. 93-5118-CV-SW-1 (W.D.Mo.);

--Feng Suo Zhou v. Li Peng, No. 00-6446 (S.D.N.Y.);

--Jung Tang v. Chinese Cultural Center, No. KC028356 9 Sup.Ct. Los Angeles, CA);

--John Doe I v. Exxon Mobil Corp., No. 1-01-CV-1357 (D.D.C.);

--Republic of the Philippines v. Westinghouse Elec. Corp. No. 88-5150 (D.N.J.).

The Foreign Ministry should like to point out to the fact that, in light of Chalabi's criticism in his Complaint of the Iraqi policy of the United States and Jordan, our legal Counsel draws our particular attention to Exxon Mobil case, in which the Department of State expressed its concern that the litigation there could be perceived as intruding upon Indonesia's sovereignty and could be disruptive of U.S. policy abroad.

The Foreign Ministry stresses the fact that this litigation raises concern at the highest levels of the Jordanian Government. Jordan is eager to maximize its chances of prevailing in this litigation at the earliest possible stage, and would immensely appreciate the esteemed Department's assistance in this regard.

Amman. 26 October 2005.

End text

14. (C) Comment: Post cannot speak to the merits of the GoJ's assertion of precedent on this issue. But the prospect of a potentially embarrassing summons of Jordanian officials while in the U.S. to give testimony in the Chalabi case is likely serious enough to warrant a careful review of the GoJ's request. End comment.

HALE